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Philmore H. Colburn II Cantor Colburn LLP 55 Griffin Road South Bloomfield, CT 06002			NAHAR, QAMRUN	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/752,090

Filing Date: December 29, 2000

Appellant(s): MARESCA ET AL.

Marisa J. Dubuc
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed on 01/12/2006 appealing from the Office action
mailed on 07/21/2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5765138	Aycock et al.	6-1998
6381579	Gervais et al.	4-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 44-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aycock et al, U.S. Patent No. 5,765,138 in view of Gervais et al, U.S. Patent No. 6,381,579.

As per claim 44, Aycock et al discloses qualifying suppliers, parts and technologies in a collaborative network environment (col. 3 lines 43-55 and col. 7 lines 1-16; Suppliers are evaluated for a project based on their responses to the requirements, where the suppliers' responses are assigned a scaled score on the basis of corresponding desired responses. There is collaboration between the suppliers and the purchasers, where the purchasers determine requirements for the project and the suppliers attempt to meet the requirements of the project via their responses.) said qualifying suppliers ("vendor database storing existing vendor performance reports, historical vendor performance reports and prior on-site audit reports, a product database identifying product performance and reliability for existing products supplied by existing and prior vendors, and a main processing system for selectively accessing the databases in response to database access requests, and for compiling supplier compliance levels based upon input

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supplier responses and weighting factors" in col. 3 lines 43-55), parts ("a project related to a voice mail system may have a set of *hardware requirements and software requirements*" in col. 5, lines 47-49) and technologies ("includes requirements for *technical specifications*, price and availability, service and support and the selected quality maturity requirements" in col. 6, lines 2-4) including acquiring supplier capabilities, part data and supplier technology data from at least one collaborative source (col. 6, line 55 to col. 7 line 16; The supplier is one collaborative source.), said collaborative source including a supplier, a manufacturing representative, and electronic catalog (col. 1 lines 21-30 and col. 2 lines 56 to col. 3 line 22) storing acquiring data in a data repository ("vendor *database* storing existing vendor performance *reports*, historical vendor performance *reports* and prior on-site audit *reports*" in col. 3 lines 45-52), said acquiring data accessible to affected collaborative source, and performing quality management functions, said quality management functions including accessing quality metrics provided by a supplier ("a main processing system for selectively *accessing* the databases in response to database access requests, and for compiling *supplier compliance levels* based upon input supplier responses and weighting factors" in col. 3 lines 45-55 and col. 7 lines 1-16).

Aycock does not explicitly disclose web based user interface, and shared data repository.

However, Gervais et al disclose providing web based user interface, and shared data repository for manufactures and suppliers or other business partners in a collaborative environment ("As a portal, the EnterpriseXspan product enhances the ability of a business enterprise to organize access and sharing of information and applications. Enhanced security and administrative tools allow this portal to be shared throughout an extended enterprise and across supply chains, providing secure access to collaborative, business or other types of applications

by business partners and suppliers. According to the invention, there is provided a method that allows resource users within an Enterprise to access a common server using standard Web browsers, so that the resource users view a menu which has been customized for them." in col. 1 lines 54 to col. 2 line 15 and Fig. 1).

Therefore, it would have been obvious to one having ordinary skill in the art to incorporate the teaching of Gervais et al into the system of Aycock to provide web based user interface, and shared data repository for manufactures and suppliers or other business partners in a collaborative environment because one would want to enhance the ability of a business enterprises to organize access and sharing of information and application (Gervais, col. 1, lines 54-65).

As per claim 45, the rejection of claim 44 is incorporated and further Aycock et al disclose recommending at least supplier based on a purchasing entity's requirement (col. 3 lines 35-60).

As per claim 46, the rejection of claim 45 is incorporated and further Aycock et al discloses analyzing said acquiring data in light of recommendations, selecting a supplier based upon results of said analyzing and providing supplier selection information and notification to affected collaborative resource as claimed (col. 3 lines 35-60, col. 11 lines 10-50).

As per claim 47, the rejection of claim 44 is incorporated and further the combination of Aycock et al and Gervais disclose auditing a supplier and submitting results of said auditing to

said data repository (Aycock, col. 3 lines 35-60), said results accessible to affected collaborative source via said web-based user interface (Gervais, Fig. 1 and col. 1 lines 55-67).

As per claim 48, the rejection of claim 44 is incorporated and further Aycock discloses placing a technology survey on a network, said technology survey accessible to at least one supplier and said technology survey associated with an engineering organization related to a technology being surveyed (Fig. 2 and col. 9 lines 3-35; A standard is interpreted as a technology survey, where the standards are established by engineering organizations.) and accessing a completed technology survey via said user interface by said engineering organization and analyzing said completed technology survey and qualifying said at least one supplier based on results of said analyzing (Fig. 2 and col. 9 lines 3-35 and col. col. 3 lines 35-60).

Aycock does not explicitly disclose web and web-based user interface as claimed.

However, Gervais et al disclose providing web based user interface, and shared data repository for manufactures and suppliers or other business partners in a collaborative environment (col. 1 lines 54 to col. 2 line 15 and Fig. 1).

Therefore, it would have been obvious to one having ordinary skill in the art to incorporate the teaching of Gervais et al into the system of Aycock to provide providing web based user interface for manufactures and suppliers or other business partners in a collaborative environment because one would want to enhance the ability of a business enterprises to organize access and sharing of information and application.

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As per claim 49, the rejection of claim 44 is incorporated and further the combination of Aycock et al and Gervais et al discloses accessing part qualification data (Aycock et al, Fig. 2 and col. 9 lines 3-35 and col. col. 3 lines 35-60) via said web based user interface (Gervais, col. 1 lines 54 to col. 2 line 15 and Fig. 1), analyzing said part qualification data and qualifying said parts passed upon results of said analyzing (Aycock et al, Fig. 2 and col. 9 lines 3-35 and col. col. 3 lines 35-60).

As per claims 50, 51 the combination of Aycock and Gervais discloses submitting data to said shared data repository by a supplier, said data accessible to collaborative source affected by said data (Aycock et al, Fig. 2 and col. 9 lines 3-35 and col. col. 3 lines 35-60) via said web-based user interface (Gervais, col. 1 lines 54 to col. 2 line 15 and Fig. 1) accessing said data, analyzing said data and determining whether to accept said data based upon said analyzing (Aycock et al, Fig. 2 and col. 9 lines 3-35 and col. col. 3 lines 35-60).

Aycock and Gervais does not disclose the data is proposed change. However, official notice is taken that proposed change including short term process change by supplier was well known in the art at the time the invention was made.

Therefore, it would have been obvious to one having ordinary skill in the art to incorporate the teaching of the well known knowledge into the teaching of Aycock and Gervais to have the data be proposed change including short term process change because one would want to enhance the ability of a business enterprises to organize access and sharing of information and application and to facilities the management of supplier qualification.

As per claim 52, the rejection of claim 44 is incorporated and further Ayccock et al disclose identifying potential problems relating to a supplier, altering affected collaborative sources of potential problems, notifying management, and collaborative with said supplier associated with said potential problems for determining a resolution and generating a problem report (col 9 line 20 to col. 13 line 12 and col. 8 lines 1-45; generating supplier's on-site audit report is interpreted as generating a problem report, where the supplier's on-site audit report is evaluated and scored. After the supplier is scored based on the on-site audit report, the supplier maturity level is recalculated, which notifies the management of any negative or positive scoring.).

As per claim 53, the rejection of claim 52 is incorporated and further Ayccock et al disclose problem reports are categorized as claimed (col 9 line 20 to col. 13 line 12 and col. 8 lines 1-37).

As per claim 54, the rejection of claim 47 is incorporated and further Ayccock discloses said result of auditing as claimed (Fig. 1).

Claims 55-65 are systems claims corresponding to method claims 44-54 respectively and are rejected for the reasons set forth in the rejections of claims 44-54 respectively.

Claims 66-76 are storage medium claims corresponding to method claims 44-54 respectively and are rejected for the reasons set forth in the rejections of claims 44-54 respectively.

Claim 77 is rejected for the same reason set forth in the rejection of claims 44, 48 and 49.

Claim 78 is rejected for the same reason set forth in the rejection of claims 55, 59 and 60.

Claim 79 is rejected for the same reason set forth in the rejection of claims 66, 70 and 71.

(10) Response to Argument

Appellant has argued

- 1) Aycock fails to teach qualifying suppliers, parts and technologies in a collaborative network environment or a collaborative source.

Examiner's Response

- 1) Examiner disagrees with Appellant's assertion that Aycock fails to teach qualifying suppliers, parts and technologies in a collaborative network environment or a collaborative source. As previously point out in the Final Rejection (Mailed on 07/21/2005, par. 4), Aycock teaches qualifying suppliers, parts and technologies in a collaborative network environment (col. 3 lines 43-55 and col. 7 lines 1-16; Suppliers are evaluated for a project based on their responses to the requirements, where the suppliers' responses are assigned a scaled score on the basis of

corresponding desired responses. There is collaboration between the suppliers and the purchasers, where the purchasers determine requirements for the project and the suppliers attempt to meet the requirements of the project via their responses.) said qualifying suppliers (“vendor database storing existing vendor performance reports, historical vendor performance reports and prior on-site audit reports, a product database identifying product performance and reliability for existing products supplied by existing and prior vendors, and a main processing system for selectively accessing the databases in response to database access requests, and for compiling supplier compliance levels based upon input supplier responses and weighting factors” in col. 3 lines 43-55), parts (“a project related to a voice mail system may have a set of *hardware requirements and software requirements*” in col. 5, lines 47-49) and technologies (“includes requirements for *technical specifications*, price and availability, service and support and the selected quality maturity requirements” in col. 6, lines 2-4) including acquiring supplier capabilities, part data and supplier technology data from at least one collaborative source (col. 6, line 55 to col. 7 line 16; The supplier is one collaborative source.).

Appellant has argued

- 2) The recognition by the examiner that Aycock does not teach a web based user interface and shared data repository lends strength to the Appellants contention that Aycock does not disclose collaborative elements. The Examiner, however, introduces Gervais for teaching the web based user interface and shared data repository and states that Gervais discloses these elements. Because Aycock does not disclose the limitations indicated with respect to claims 44, 66 and 77-79, Gervais can not cure the deficiencies therein.

Examiner's Response

2) In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Appellant has argued

3) If the Examiner is somehow suggesting that the standards disclosed in Aycock are synonymous with the technology surveys recited in Appellants claims, this interpretation is in error. The standards disclosed in Aycock are not technology surveys, the latter of which relates to questions that solicit structured responses for a given technology. Additionally, Aycock is devoid of teaching or suggesting that said technology survey is associated with an engineering organization related to a technology being surveyed.

Examiner's Response

3) Examiner disagrees with Appellant's assertion that Aycock fails to teach a technology survey. As previously point out in the Final Rejection (Mailed on 07/21/2005, par. 4), Aycock teaches placing a technology survey on a network, said technology survey accessible to at least one supplier and said technology survey associated with an engineering organization related to a technology being surveyed (Fig. 2 and col. 9 lines 3-35; A standard is interpreted as a technology survey, where the standards are established by engineering organizations.).

Appellant has argued

4) The recognition by the examiner that Aycock does not teach a web based user interface and shared data repository lends strength to the Appellants contention that Aycock does not disclose collaborative elements. However, the Examiner contends that Gervais teaches the web based user interface and shared data repository. Because Aycock does not disclose the limitations indicated with respect to claims 77 and 79, Gervais does not cure the deficiencies therein.

Examiner's Response

4) In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Appellant has argued

5) Aycock does not teach a web based user interface and shared data repository, which lends strength to the Appellants contention that Aycock does not disclose collaborative elements. For at least those reasons, claims 45, 56 and 67 patentably define over Aycock in view of Gervais.

Examiner's Response

5) In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Appellant has argued

6) Aycock does not teach a web based user interface and shared data repository, which lends strength to the Appellants contention that Aycock does not disclose collaborative elements. For at least these reasons, claims 47, 58 and 69 patentably define over Aycock in view of Gervais.

Examiner's Response

6) In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Appellant has argued

7) The proposed process changes are provided to a shared data repository and are accessible to collaborative sources via said web-based user interface. The claims further recite that the proposed process change is accessed analyzed and a determination whether to accept the proposed process change is made. These limitations clearly reflect the collaborative process that

is featured in the claims and which is not taught by Aycock or Gervais. For at least these reasons, claims 50, 51, 61, 62, 72 and 73 patentably define over Aycock in view of Gervais.

Examiner's Response

7) Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. The Final Rejection (Mailed on 07/21/2005, par. 4) recites various sections in the references to disclose these features; applicant has failed to point out the error in the rejection of using the various sections. Therefore, the rejection is proper and is maintained.

Appellant has argued

8) Aycock is devoid of teaching any notification to management, much less a notification of potential problems. For at least these reasons, claims 52, 63 and 74 patentably define over Aycock in view of Gervais.

Examiner's Response

8) Examiner disagrees with Appellant's assertion that Aycock fails to teach any notification to management, much less a notification of potential problems. As previously point out in the Final Rejection (Mailed on 07/21/2005, par. 4), Aycock teaches identifying potential problems relating to a supplier, altering affected collaborative sources of potential problems, notifying management, and collaborative with said supplier associated with said potential problems for

determining a resolution and generating a problem report (col 9 line 20 to col. 13 line 12 and col. 8 lines 1-45; generating supplier's on-site audit report is interpreted as generating a problem report, where the supplier's on-site audit report is evaluated and scored. After the supplier is scored based on the on-site audit report, the supplier maturity level is recalculated, which notifies the management of any negative or positive scoring.).

Appellant has argued

9) Neither Aycock, nor Gervais, alone or in combination teach or make obvious categorization of problem reports. Nor do they teach or make obvious categorizing problem reports by the limitations recited in claims 53, 64, and 75. For at least these reasons, claims 53, 64 and 75 patentably define over Aycock in view of Gervais.

Examiner's Response

9) Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. The Final Rejection (Mailed on 07/21/2005, par. 4) recites various sections in the references to disclose these features; applicant has failed to point out the error in the rejection of using the various sections. Therefore, the rejection is proper and is maintained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



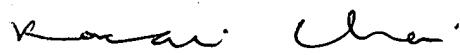
Qamrun Nahar

March 22, 2006

Conferees:



Wei Y. Zhen
SPE 2191



Kakali Chaki
SPE 2193